

**WASHINGTON STATE HUMAN RIGHTS COMMISSION
MEETING OF AUGUST 24, 2006**

**Radisson Hotel
SeaTac, WA**

ATTENDANCE

Commissioners: Kathy Baros Friedt, Commission Chair; Deborah Sioux Cano-Lee; Jerry Hebert; and Shawn Murinko.

Staff: Marc Brenman, Executive Director, Tanya Calahan, Executive Assistant to the Commissioners; Idolina Reta, Deputy Director; Jennifer Greenlee and Dixie Shaw, Operations Managers; Dean Hirst; Janice Whitman, Leslie Taylor, Mai Kim Ly, and Dana Hess, Civil Rights Investigators.

Guests: Kathy Barnard, NW Women's Law Center; Kelly Reese, Planned Parenthood of Western Washington; Marilyn Watkins, Economic Opportunity Institute; Mary Miller, WA State Department of Labor & Industries; Kim Radtke, Within Reach & Breastfeeding Coalition of Washington; Jerry Lee; Milt Ruffins; Laverne Lamoureux; Frank Trevino; Kim Rechner; Dr. Mary Ann O'Hara; Marilyn Watkins; Allison Mendiola; Janice Dye; Art Grant; Jaclyn Reifsnyder; Amy Whitehurst; Ginny English; and Virginia Menting.

(Forum was audio recorded digitally and video taped by TVW)

OPENING AND WELCOME

Commissioner Baros Friedt called the meeting to order at 7:09 p.m. She introduced Commissioners, staff, and panel members. She then outlined the purpose of public forums; which includes increasing understanding and public awareness about the protections under the Washington Law Against Discrimination and public education.

Deputy Director Idolina Reta shared the history of WSHRC's civil rights law and explained the work of the agency over the past 57 years. She touched on employment benefits and return to work after temporary disabilities and maternity leave.

She gave examples of cultural differences and perceptions and their impacts on sex harassment claims.

PUBLIC FORUM – PANEL DISCUSSION

Panelist Kathy Barnard of the NW Women's Law Center spoke first. She talked about the women's movement and the increase of charges filed with EEOC – 31% based on sex/maternity discrimination. There are perceptions and negative stereotypes regarding leave for pregnancy; such as pregnant cocktail waitresses or perceptions of unreliability of women of child bearing age who *may* become pregnant. She explained the difference between maternity leave and family/parental leave.

Women are 47% of the workforce. She highlighted the history of women's inability to practice law in the 19th Century and beyond because their place was "in the home." Women could be fired for being pregnant in 1974. This changed later in 1974 by a Supreme Court decision. Education is still needed in this area.

Kelly Reese of Planned Parenthood spoke next. She explained that the medication "Plan B" is now available behind the counter as recently approved by the FDA. She spoke about the Union Pacific Railroad case that excluded contraception for women under the employer's insurance plan. The judge issued a favorable decision in that case.

Marilyn Watkins of the Economic Opportunity Institute spoke. She talked about the need for access to paid leave for all workers and the few rights that women have after they get pregnant. They usually receive no pay while they're out on leave. She gave examples of women that went back to work early; one woman returned two weeks after a caesarian section and giving birth to a premature baby. She explained coverage under the Family Medical Leave Act (FMLA). Women are entitled to 12 weeks unpaid leave if they work for an employer with 50 or more employees and they have worked for their employer for 12 months or more. She gave statistics for short term disability leave. About 57% of workers have paid sick leave. Only 8% have access to paid family leave. There is still a wage gap between men and women also.

Mary Miller is an RN and works for the WA State Department of Labor Industries (L&I). She spoke about Family Leave and Family Care. L&I defers to the federal government for FMLA enforcement. The state law is equivalent. She spoke about access to a restroom as being a health and safety OSHA regulation instead of being part of a rest or meal period break.

Kim Radtke of Within Reach and Breast Feeding Coalition of WA spoke about breastfeeding issues. She spoke about the importance of breastfeeding and its benefits to the health of babies. She spoke about barriers in the workplace for women that need to express or pump breast milk.

OPEN FORUM- AUDIENCE COMMENTS

Jaclyn Reifsnyder is a pediatric nurse that was told that she could only pump breast milk during her lunch break or after work. She was not allowed anymore time at work for breastfeeding.

Kim Rectner is a registered nurse in Lacey. She pumped breast milk in the break room at her place of employment, a hospital. She suggested a state mandate and legislation to give women the right to pump breast milk at work.

Dr. Maryanne O'Hara spoke. She asked about the process of getting breastfeeding covered under Washington State law. The Washington State Legislature would need to enact legislation to cover breastfeeding under the law.

The Commissioners gave closing comments and thanked the panelists, and audience members for coming and participating in the night's forum.

There being no further business, the meeting adjourned at 9:15 p.m.

Respectfully submitted,

Tanya Y. Calahan
Executive Assistant to the Commissioners

FRIDAY, AUGUST 25, 2006

ATTENDANCE

Commissioners: Kathy Baros Friedt, Commission Chair; Deborah Sioux Cano-Lee; Jerry Hebert; and Shawn Murinko. A quorum was present.

Staff: Marc Brenman, Executive Director; Tanya Calahan, Executive Assistant to the Commissioners; Idolina Reta, Deputy Director; Jennifer Greenlee, Operations Manager; and Traci Friedl, Assistant Attorney General.

Guests: No guests were present.

APPROVAL OF MINUTES

Commissioner Hebert made a motion to approve the minutes of the August 24-25, 2006 meeting. "socialist movement" should be capitalized on page six. Commissioner Lee seconded the motion with the noted change. MOTION CARRIED.

The Commissioners welcomed Commissioner Shawn Murinko, from Spokane. Governor Gregoire recently appointed him as the newest Commissioner. Commissioner Murinko said a few words and expressed appreciation for his appointment.

ACTION ITEMS:

Commissioner Baros Friedt reviewed action items from the public forum on August 24, 2006, as well as the action items from the August 25-26, 2006 Commission meeting.

Staff will post the Family Medical Leave Act handout on the agency's website.

Commissioner Baros Friedt discussed the tour of Northwest Center in Seattle. She, Idolina Reta, Tanya Calahan, Jennifer Greenlee, and Commissioner Murinko and his family toured the center. Northwest Center's mission is to promote the growth, development, and independence of persons with disabilities through programs of education, rehabilitation, and work opportunity. The Center was established in July 1965 by families of people with disabilities. The Center provides critical therapies, education, vocational training and job placement services that help people with disabilities reach their fullest potential.

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Commissioner Murinko commented about the importance of client choice and individuals with disabilities working in the community.

There was discussion about accommodations for persons with disabilities. Many accommodations are inexpensive and not a hardship for employers, if they are willing to think outside of the box. There are staff at Northwest Center that are very skilled in coming up with tools to accommodate individuals with disabilities so they can perform their jobs effectively.

The Commissioners next discussed the breastfeeding issue, which was a major focus at the previous night's public forum. Commissioner Hebert suggested that WSHRC investigate breastfeeding complaints under sex discrimination and that staff use alternative dispute resolution. However, breastfeeding complaints are not investigated currently as sex discrimination under the Washington Law Against Discrimination.

Assistant Attorney General Traci Friedl will research court cases on the breastfeeding issue. They further discussed the types of places where individuals can breastfeed. Hospitals were mentioned at the public forum as being a place where women had difficulties breastfeeding on the job.

CASE CLOSURES

The Commissioners discussed several cases on the agenda for closure. Marc Brenman requested that the Commissioners pull the *Baudino v. North Pines Dental* care no reasonable cause finding from the agenda.

The Commissioners discussed the *Dickerson v. Fred Meyer* conciliation failure case, which cites the *Pulcino* case, and whether or not the *McClarty* disability case could affect it.

Commissioner Hebert made a motion to approve case closures with the exception of the *Baudino* case. Commissioner Murinko seconded the motion. MOTION CARRIED.

Commissioner Hebert noted the investigators' excellent work on cases closures for the month of August 2006.

Traci Friedl discussed the amicus on the *McClarty* case. McClarty filed a motion for reconsideration. Granting reconsideration is rare. She explained that it's important to have data ready in case the Washington State Supreme Court or Legislature asks for it.

REPORT OF THE CHAIR

Commissioner Hebert complimented staff on the write up of the budget decision packages.

Commissioner Baros Friedt noted that the Commissioners need to discuss the 2007 calendar at the September 2006 Commission meeting. This will be an agenda item.

The Commissioners discussed staff's request to hold mid month special meetings for housing case approval. Delay in approving these cases results in a financial loss under the contract with the US Department of Housing and Urban Development (HUD). Only 24 hours notice is needed for a special meeting. Commissioner Hebert disagrees with delegating case closures to the executive director; instead the Commissioners can hold a phone conference.

Commissioner Hebert made a motion that as standard operating procedures, the Commissioners hold special meetings throughout the month to approve housing or other cases to deal with timely case closures and to avoid jeopardizing case contract revenue. Commissioner Lee seconded the motion. MOTION CARRIED. Individual Commissioners will decide if they want payroll or not for these meetings.

MONTHLY BUDGET & CASE PRODUCTION REPORTS

Operations Manager Jennifer Greenlee spoke about how HUD case credit is issued and money deducted from late cases. Idolina Reta explained the performance period for HUD & federal Equal Employment Opportunity Commission (EEOC) contracts.

The agency's pending case inventory went up. There was discussion about the economy's impact on age discrimination complaints. There is no trend in that area. The "graying" workforce has an impact on complaint filing by bumping up disability complaints.

Commissioner Baros Friedt asked for a report that has successful closures grouped together. Closures such as pre finding settlements, conciliations, and other settlements should be combined.

Marc Brenman discussed the recent flurry of media inquiries regarding sexual orientation and gender identity complaints.

Mr. Brenman handed out a Self Assessment Checklist for Best Practices relating to sexual orientation discrimination. The State of New Jersey wants to model the document.

Plans are on track for opening the Vancouver office. It will be staffed on Wednesdays. The grand opening is on September 8, 2006.

EXECUTIVE DIRECTOR REPORT

Commissioner Hebert asked about the staff climate survey. Consultant Dee Endelman conducted the survey. Mr. Brenman summarized her findings; such as the agency having a career ladder in place but no specific procedure according to staff for them to utilize it. Staff also commented that there are too many layers for reviewing cases.

Mr. Brenman will provide the Commissioners the action plan from the climate survey when it is ready.

UNFINISHED BUSINESS

The Commissioners discussed having a work study session on November 9, 2006 (instead of November 10th) to discuss strategies for the McClarty case.

NEW BUSINESS

The Commissioners shared what meetings and activities they participated in throughout the month. Commissioner Lee met with an agency about a letter they received from WSHRC. The agency will request training from WSHRC.

Commissioner Hebert met with the Unity Coalition. He also sent a letter to the Kitsap County Council as a citizen regarding the negative comments a Kitsap County Human Rights Council member made at the July forum. She was removed from the Human Rights Council.

Commissioner Murinko did community outreach in Spokane. He met with Spokane office staff. He was very impressed by staff in the Spokane Office. He's going to attend a Pow Wow in Spokane. He then spoke about problems with Spokane Law Enforcement's negative interactions with people with disabilities.

Commissioner Baros Friedt attended a Youth Leadership Forum event at Evergreen State College. She participated in judging a Women of Influence event. She attended a meeting with five women from India. The World Affairs Council through the US Department of State sponsored the meeting.

The Commissioners discussed the September Commission meeting scheduled for Yakima. Commissioner Hebert will take the lead on planning a forum on how to start a local human rights council.

Commissioner Murinko proposed having a disability forum in light of the *McClarty* decision in November to look at the impacts of the decision and assemble disability advocates for a decision. He suggested Seattle or Olympia. Commissioner Baros Friedt suggested the Radisson again in SeaTac. Commissioner Murinko asked for ideas for speakers. Commissioner Lee wants tribal leaders in the mental health arena to attend. A public forum related to this topic will be on November 16, 2006 in Sea Tac. Tanya Calahan will update the Commission meeting schedule to reflect the date change for the work study session and location change for the meeting for November.

RECONSIDERATIONS

Deputy Director Idolina Reta explained the Commissioner's Reconsideration Policy and criteria for reconsideration.

Navarro v. Eighth Avenue Inn. The Respondent filed a request for reconsideration and requested a "no jurisdiction" finding because the new owners are not the correct respondent. Commissioner Hebert made a motion to deny the petition. He commented that the ultimate finding is no reasonable cause and a no jurisdiction finding would be erroneous. Commissioner Lee seconded the motion. Discussion continued. After further discussion and clarification, MOTION CARRIED.

Commissioner Hebert made a motion to deny the petitions for reconsideration for **Christian v. Skookum Educational Programs; Fong Lee v. Seattle Public Schools; and Loftus v. University of Washington.** The Commissioners reviewed the materials previously. Commissioner Lee seconded the motion. MOTION CARRIED.

ACTION ITEM REVIEW

Tanya Calahan reviewed the action items from the day's meeting. They are attached to these minutes.

Commissioner Lee stated that she will not be attending the Commission meeting in September 2006 because of a family commitment.

ADJOURN

There being no further business, the meeting adjourned at 2:15 p.m.

Respectfully submitted,

Tanya Y. Calahan
Executive Assistant to the Commissioners

**Public Forum
Action Items
As of August 24, 2006**

1. Staff will research public assistance statistics in Washington State to obtain real numbers regarding minority public assistance recipients. (April 06)

Status: Deputy Director Idolina Reta is working on a draft. Staff posted immigrant statistics on the agency's website.

2. Marc Brenman suggested using Washington Association of Police Chiefs and Sheriffs as a resource and sending them a cover letter with Access to Justice recommendations and ask them to distribute the information to their members. Commissioner Hebert suggested emphasizing that same interpreter is not appropriate in all settings like legal settings vs. medical services. (June 06)

Status:

3. Tanya Calahan will contact Kim Tanaka of Governor Gregoire's Office and provide contact information for the constituent from the Spokane forum who stated that he received no response from the Governor's Office, after several emails. He accessed her thru Gov's website. (July 06)

Status: Tanya Calahan is researching this information by reviewing audio recording of the Spokane meeting. Information is difficult to ascertain on the audio recording. She will continue to research it.

4. Staff will put the FMLA leave table handed out at the August 24, 2006 public forum on WSHRC's website. (August 06)

Status: Not completed yet.

5. Assistant Attorney General Traci Friedl will research relevant breastfeeding case law in Washington State as it might pertain to WSHRC jurisdiction. (August 06)

Status: Ms. Friedl is actively working on this issue.

6. Commissioner Baros Friedt will follow up with L&I on learning modules relating to sexual harassment for high school students. (August 06)

Status: Not completed yet.

**Commission Meeting
Action Items
As of August 25, 2006**

1. The Executive Director will outline when in-person investigations are particularly advised. (March 06)

Status: The ED drafted documents which the Operations Managers and Deputy Director are currently reviewing.

2. Include on WSHRC website, information for referring people to the US Department of Education, Office of Civil Rights regarding overlapping jurisdiction on charges within schools. (March 06)

Status: Not completed yet.

3. Executive Director Marc Brenman will clarify the distinctions between whistleblower complaint jurisdiction under the State Auditor vs. whistleblower retaliation under the Washington Law Against Discrimination. (March 06).

Status: Deputy Director Idolina is working on a draft.

4. Marc Brenman will check with Kent community leader Claudia Kauffman Red Morning Star regarding the status of the student handcuffing issue in Kent. (May 06)

Status: Mr. Brenman will contact Ms. Red Morning Star.

5. Marc Brenman will send a cover letter to Small Tribes Organization of WA with a copy of the letter that was sent to United Indians regarding the tribal preference issue. Staff will also send a Technical Assistance Advisory to respondent in the Small Tribes Organization of Washington case. (June 06)

Status: Not completed yet.

6. Tanya Calahan will provide the Commissioners an updated list of human rights organizations in Washington. (July 06)

Status: Volunteer Sally Williamson is working on this item. Draft was completed in time for discussion at the September 28-29, 2006 Commission meeting.

7. Tanya Calahan will provide Traci Friedl a copy of the Cedar Woods settlement agreement. (August 06)

Status: This item is completed.

8. Commissioner Baros Friedt requested that the successful case closures be clustered in the same chart. This includes PFS, Conciliations, and other positive case results. (August 06)

Status: This item is completed.

9. Marc Brenman will send the Commissioners the action plan from the climate survey when available. (August 06)

Status: Action plan not completed yet.

10. Reschedule work study session for November to November 9, 2006 to discuss McClarty strategies. Invite Paul Goulding to the meeting. (August 06)

Status: Work study session has been rescheduled.

11. Marc Brenman will distribute the civil rights organization "how to" to all Commissioners. (August 06)

Status: Mr. Brenman completed this task.

12. Change the location from Olympia to SeaTac for the November 16-17, 2006 Commission meeting. (August 06)

Status: Tanya Calahan updated the Commission meeting schedule to reflect the change.

13. Commissioners will look at the 2007 calendar and have ideas ready to present for 2007 forums at the September 29, 2006 meeting. (August 06)

Status: The Commissioners discussed the draft 2007 calendar on September 29, 2006. The Commissioners will complete the calendar by the end of the year.